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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/599,775

09/21/2007

Patrick Blin

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MEADWESTVACO CORPORATION  
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EXAMINER

PERREAULT, ANDREW D

ART UNIT

PAPER NUMBER

3728

NOTIFICATION DATE

DELIVERY MODE

06/30/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketadministrator@mwv.com

### Office Action Summary

**Application No.**

10/599,775

**Applicant(s)**

BLIN, PATRICK

**Examiner**

ANDREW PERREAULT

**Art Unit**

3728

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-26 and 28-32 is/are pending in the application.
- 4a) Of the above claim(s) 18, 21, 23 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17, 19, 20, 22, 24, 25, 28-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 18, 21, 23, and 26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 04/08/2009.

Claims 17, 19, 20, 22, 24, 25, and 28-30 stand.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 20, 22, 24, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Galbrier et al. (5,845,776) which discloses in Figures 1-14 the invention as claimed:

In re claim 20: a package comprising a carton 1 and bottles B; bottom end closure 9; top closure 7; said top closure being formed of foldable sheet material as disclosed in col. 6, line 25-54; article-retaining arrangement including a plurality of apertures 15; said each aperture having a frangible connection 73, 75, 81, 83, 85 extending to another one of said apertures as disclosed in fig 6; said frangible connection being arranged such that structural integrity of the carton is substantially

maintained upon breaking of said frangible connection as disclosed in col. 7, line 36, line 20-41.

in re claim 22: said plurality of apertures are arranged in rows, each aperture of a row having a frangible connection extending to one of said apertures of a different row  
figs 1, 6.

in re claim 24: wherein each aperture at an end of a row is connected to an edge of said top closure by a further frangible connection figs 1, 6.

in re claim 25: a frangible connection between two of said apertures intersects a frangible connection between two other ones of said apertures figs 1, 6.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 17, 19, and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mardon (GB406511) in view of Huspeka et al. (5,699,959). Mardon discloses in figures 1-5:

In re claims 17 and 28 (both): Mardon discloses a two part carton and a blank in figs 1-5; an open top container (or first part) 1; a separate top closure (or second part) 4; a pair of opposed side walls and a pair of opposed end walls fig 1; top flap 2' hingedly connected to an uppermost edge 2 of said one wall in fig 2; said top flap is folded

downwardly with respect to said uppermost edge to extend into said open top container  
figs 2, 4; top panel, said top closure engages with said top closure such that said top  
closure is locked in a recessed position below said uppermost edge of said open top  
container as disclosed on page 2, left column, line 57-65.

Mardon discloses the invention as discussed above for claims 17 and 28, with  
the exception of the following claimed limitations that are taught by Huspeka in figures  
1-8.

In re claims 17, and 28 (both): Huspeka discloses an engaging tab, inner portion  
of 48 in fig 8; pair of inner and outer handle panels, inner and outer panels of 14 in fig  
9; panels hingedly connected at upper edge 50; inner panel is disposed along an  
inside surface of an end wall in fig 9, while outer panel is disposed along an outside  
surface of an end wall in fig 9.

It would have been obvious to one of ordinary skill in the art at the time of the  
invention to modify Mardon as discussed above, and further in view of Huspeka, in  
order to provide a top that is removable and re-attachable with multiple panels to  
improve upon the strength of the device, as taught by Huspeka on col. 1, line 9-18 and  
fig 9.

In re claim 19: Huspeka further discloses that said engaging tab extends  
upwardly from a top panel 44 and engages an outside surface of a top flap as shown in  
figs 8, 9

In re claim 29: Huspeka further discloses a multi-ply handle structure in fig 9

In re claim 30: Huspeka further discloses three piles in fig 9

It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify Mardon and further in view of Huspeka, for the reasons discussed above for claims 17 and 28.

3. Claims 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mardon in view of Huspeka as applied to claims 28 and 30 above, and further in view of Depper (4,981,254). Mardon in view of Huspeka teaches the claimed invention as discussed above, with the exception of the following claimed limitation that is taught by Depper in figures 1-6:

In re claims 31 and 32 (both): Depper discloses an inner handle panel 60, outer handle panel 54, and an end wall 68 are each provided with apertures 90, 92, 98

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Mardon in view of Huspeka as discussed above, and further in view of Depper, in order to improve upon the strength of the device and handle by providing multiple panels that align with apertures, as taught by Depper on col. 4, ll. 31-44 and figs 1-6.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **ANDREW PERREAULT** whose telephone number is (571)270-5427. The examiner can normally be reached on Monday - Friday, 8:00 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on (571)272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. P./  
Examiner, Art Unit 3728

/Ehud Gartenberg/  
Supervisory Patent Examiner, Art Unit 3728